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CARTER et al. v. WOOD et al.

Sept. 29, 1904.

[48 S. E. 553.]

EJECTMENT—LOST DEEDS—PROOF—COPIES—DEFENSES—STATEMENT—EFFECT.

1. A bare entry of an order of the county court of C. county setting forth that a deed of bargain and sale from P. and wife, plaintiffs' predecessors in title, was admitted to record, together with proof that the records had been destroyed in 1863 by Federal soldiers, and that the grantor in such deed owned no land in C. county other than that in controversy, was insufficient to establish title through such deed.

2. A copy of a lost deed made by the son of one of the grantees some time between 1866 and 1872 was not admissible in place of the original, in the absence of evidence of the due execution of the original deed to the land in controversy; the son never having seen the grantor, and not being familiar with his handwriting.

3. Where in ejectment defendants at the beginning of the trial, on being required to state the grounds of their defense, stated that plaintiffs had no title to the land sued for, and that plaintiffs' claim was based on an alleged instrument which did not constitute a valid ground for any claim of title as against defendants, but was illegal and void, the grounds so stated were sufficient to cover objections to the admission in evidence of a paper purporting to be a copy of a lost deed through which plaintiffs claimed.